

configuration.⁷² Again, the Commission permitted a carrier to aggregate spectrum under a single license based upon existing market conditions and Nextel's desire to develop and deploy a new and innovative technology to meet future demands.⁷³ The same rationale justifies granting the instant waiver request.

B. Waiver of the Narrowband PCS Spectrum Aggregation Limit is Consistent with Past Commission Practice

PageNet and AGI recognize that the Commission denied a similar waiver request associated with AGI's acquisition of MobileMedia Corporation based, in part, on a determination that the "rulemaking here does not even specifically propose to modify the rule in question."⁷⁴ There are significant reasons, however, why the determination not to grant the MobileMedia waiver does not dictate the Commission's action in the instant matter.

The issue of whether to eliminate the narrowband PCS spectrum aggregation limit is in fact raised in the *Narrowband PCS Further Notice*.⁷⁵ The *Narrowband PCS Further*

⁷² *Id.*

⁷³ *Id.* at 1536.

⁷⁴ *Mobile Media Corporation, et al.*, Memorandum Opinion and Order, 14 FCC Rcd 8017, ¶ 35 (1999). The Commission also asserted that the "mere possibility that a rule may be reexamined does not by itself warrant grant of a waiver." *Id.*

⁷⁵ AGI recognizes that in previously-filed comments on the *Narrowband PCS Further Notice*, 12 FCC Rcd 12972 (1997), it supported maintaining the spectrum aggregation limit *unless* the Commission channelized and licensed the narrowband PCS reserve spectrum. In doing so, AGI argued that the "removal or relaxation of this spectrum cap would allow . . . licensees to increase their spectrum holdings to the preclusion of others, thereby enabling the companies to maintain a stranglehold on the narrowband PCS two-way voice service market."
(continued...)

Notice tentatively concluded to channelize and license the reserve narrowband PCS spectrum.⁷⁶ In that context, the Commission requested comment on the narrowband PCS aggregation limit and whether it should “modify, increase or eliminate such aggregation limits.”⁷⁷ Several parties commenting in response to the *Narrowband PCS Further Notice* agreed that the current narrowband PCS spectrum cap rules should be modified.⁷⁸

(...continued)

AGI Comments at 13-14 (filed June 18, 1997). Its previously held position notwithstanding, AGI now believes that the changes in the paging/messaging market, since release of the *Narrowband PCS Further Notice*, such as increasing spectrum demands by advanced messaging services have undermined any validity the spectrum aggregation limit may have had at that time.

⁷⁶ 12 FCC Rcd at 12991.

⁷⁷ *Id.*

⁷⁸ Reply Comments of AirTouch at p.7 (filed July 21, 1997) (“AirTouch generally opposes spectrum caps. A spectrum cap seems particularly anomalous for narrowband PCS spectrum because other Commission licensees with much broader bandwidth are free to provide competing narrowband services with no limitation on how much bandwidth they might devote to such an enterprise. . . . The benefits of a narrowband spectrum cap are also questionable in light of the manner in which narrowband service providers have garnered spectrum to meet their service needs. . . .”); Reply Comments of CONXUS at pp. 2-4 (filed July 21, 1997) (“CONXUS urges the Commission to eliminate the aggregation limit for narrowband PCS as the FCC has done in other [CMRS] services in which competitive bidding rules have been implemented, or proposed. . . . Narrowband PCS will also compete in the broad CMRS marketplace. . . . Therefore, it is critical that a narrowband PCS licensee[] be allowed the flexibility to aggregate sufficient spectrum to provide competitive service to the broadband CMRS licensees. . . . Moreover, narrowband PCS will compete with incumbent paging companies for the same subscribers. . . . Narrowband PCS is an extension of the paging industry and will provide additional competition in [that] market in which there are a diverse number of licensees. Therefore, permitting aggregation of the remaining narrowband PCS [spectrum] will not result in a reduction of competition in the CMRS marketplace.”); Comments of PageMart, Inc. at pp.7-8 (filed June 18, 1997) (“PageMart believes the Commission should eliminate this limit, particu-
(continued...)”)

Moreover, the commenters supporting raising the spectrum cap did so while opposing channelization and licensing of the narrowband PCS reserve spectrum.⁷⁹ Thus, the question of whether to modify or eliminate the narrowband PCS spectrum aggregation limit was directly raised by the Commission and addressed by commenters in the rulemaking. This means that, within the same time frame that PageNet and AGI seek merger approval, or shortly thereafter, the Commission will determine whether the narrowband PCS cap should be modified or eliminated. It would be extremely inequitable to the Combined Company to require it to divest narrowband PCS licenses at a significant loss only to eliminate or modify the rule a few months later.

PageNet and AGI wish to emphasize that a waiver of the spectrum aggregation limitation pending the Commission's disposition of these issues is warranted in this case. The coincidence in the timing of AGI's plan to acquire PageNet and the Commission's reexamination of its narrowband PCS aggregation rules makes waiver of the rule in the public interest. As discussed above, permitting AGI to retain more than three narrowband

(...continued)

larly if it moves forward with plans to channelize and license the remaining on MHz of reserve spectrum. . . . The purpose of auctions is to allocate spectrum to the parties that value the spectrum most highly. A narrow restriction on the amount of spectrum held by any one party could have a deleterious effect on this goal, and on the ability of the Commission to raise revenue through the auction process. A move to liberalize the aggregation limit would be consistent with the Commission's trend toward greater flexibility and would assist it in ensuring that narrowband PCS achieves parity with other services . . .").

⁷⁹ Other commenters noted the incongruity between the Commission's policies for determining attribution in the context of broadband PCS spectrum aggregation limits, as opposed to the current attribution rules in the narrowband context, and argued that the Commission should relax the narrowband attribution rules to conform with those applied in the broadband context.

PCS channels will not hamper the Commission's important policies of promoting competition. Further, as discussed above, the Combined Company will in fact need the additional channels in order to compete with the large cellular and broadband PCS carriers who all have substantially more spectrum. Nevertheless, absent grant of the instant request for temporary waiver, AGI will be saddled with the task of complying with a spectrum cap that may very well change in the near future, severely hampering the Combined Company's ability to deploy advanced messaging services in the interim.

Further, grant of the requested waiver would be consistent with prior Commission precedent. The Commission has previously allowed licensees additional time to divest interests that do not comply with its 45 MHz CMRS spectrum cap pending the outcome of relevant proceedings.⁸⁰ In a recent order, the Commission granted five requests for waiver of the 45 MHz CMRS spectrum cap. Specifically, Pioneer Telephone Association, Inc., TLA Spectrum, L.L.C., Midwest Wireless Communications, L.L.C., Chariton Valley Communication Corporation, Inc., and OPS Three, L.L.C., filed requests for permission to exceed the spectrum cap by 5, 10, 10, 10, and 5 MHz respectively.⁸¹

⁸⁰ See *Request of Wireless Co, L.P., Phillie Co., L.P., and Sprint Corporation For Limited Waiver of Section 24.204 of the Commission's Rules*, Order, 10 FCC Rcd 11111 (1995) (granted waiver of the 90-day deadline for divesting non-complying interests); *Cincinnati Bell Telephone Company, Petition for Waiver of Section 24.204 of the Commission's Rules*, Order, 9 FCC Rcd 7658 (1994) (waived the 90-day divestiture deadline to give licensee 180 days from the grant of PCS licenses to divest non-complying interests).

⁸¹ *Pioneer Telephone Association, Inc., et al.*, DA 99-1823, 1999 FCC Lexis 4356 (rel. Sept. 8, 1999).

The Commission granted waiver of the spectrum cap “subject to the outcome of the Commission’s pending rulemaking” reviewing the CMRS spectrum cap.⁸²

In a similar case, Western PCS II acquired a B block broadband PCS license which would result in the company exceeding the spectrum cap by 10 MHz. The Commission permitted Western to wait 6 months or 90 days (which ever came earlier) after issuance of its order in the *Partitioning and Disaggregation Proceeding* before divesting non-complying interests.⁸³ The Commission concluded that its upcoming order in the *Partitioning and Disaggregation Proceeding* might give Western additional options in divesting its non-complying interests.⁸⁴ The Commission subsequently extended that waiver (even after release of the *Partitioning Order*) pending release of an order resolving a request for permanent waiver of the CMRS spectrum cap rule.⁸⁵ In short, Western PCS II held a waiver for over two years.

The rationale of the above cases are equally applicable to the instant request for waiver. The narrowband PCS rule changes being considered in the Commission’s *Further Notice* may redefine the regulatory landscape affecting PageNet, AGI and other narrowband PCS licensees in essentially the same manner that the Commission’s *Partitioning and Disaggregation* and *Spectrum Cap* rulemakings affected Western and

⁸² *Id.* The Commission released its *Spectrum Cap Order* two weeks later on September 22, 1999.

⁸³ *Western PCS II License Corporation Request for Waiver of Section 20.6 of the Commission’s Rules*, Order, 11 FCC Rcd 14487 (1996).

⁸⁴ *Id.*

⁸⁵ *Western PCS II License Corporation*, Order, 12 FCC Rcd 11665 (1997).

other CMRS licensees. The Commission's grant of the aforementioned waiver helped Western and other parties to avoid the burden of complying with rules that were being reexamined by the Commission. Similar treatment is clearly warranted here.

Finally, as discussed, the industry has changed dramatically since 1993 and the narrowband PCS spectrum rules need to change to reflect new market realities. AGI, therefore, respectfully requests a waiver of the narrowband PCS spectrum aggregation rule set forth under Section 24.101(a) pending completion of the Commission's deliberations in GEN Docket No. 90-314.

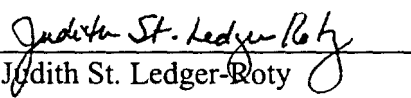
CONCLUSION

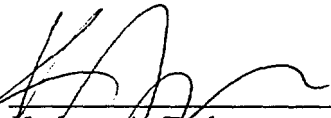
For the reasons stated herein, PageNet and AGI urge the Commission to act expeditiously on the instant applications. Prompt action will enable the Combined Company to direct its full attention toward the provision of quality, competitive messaging services to the public.

Respectfully submitted,

PAGING NETWORK, INC.

ARCH COMMUNICATIONS GROUP, INC.

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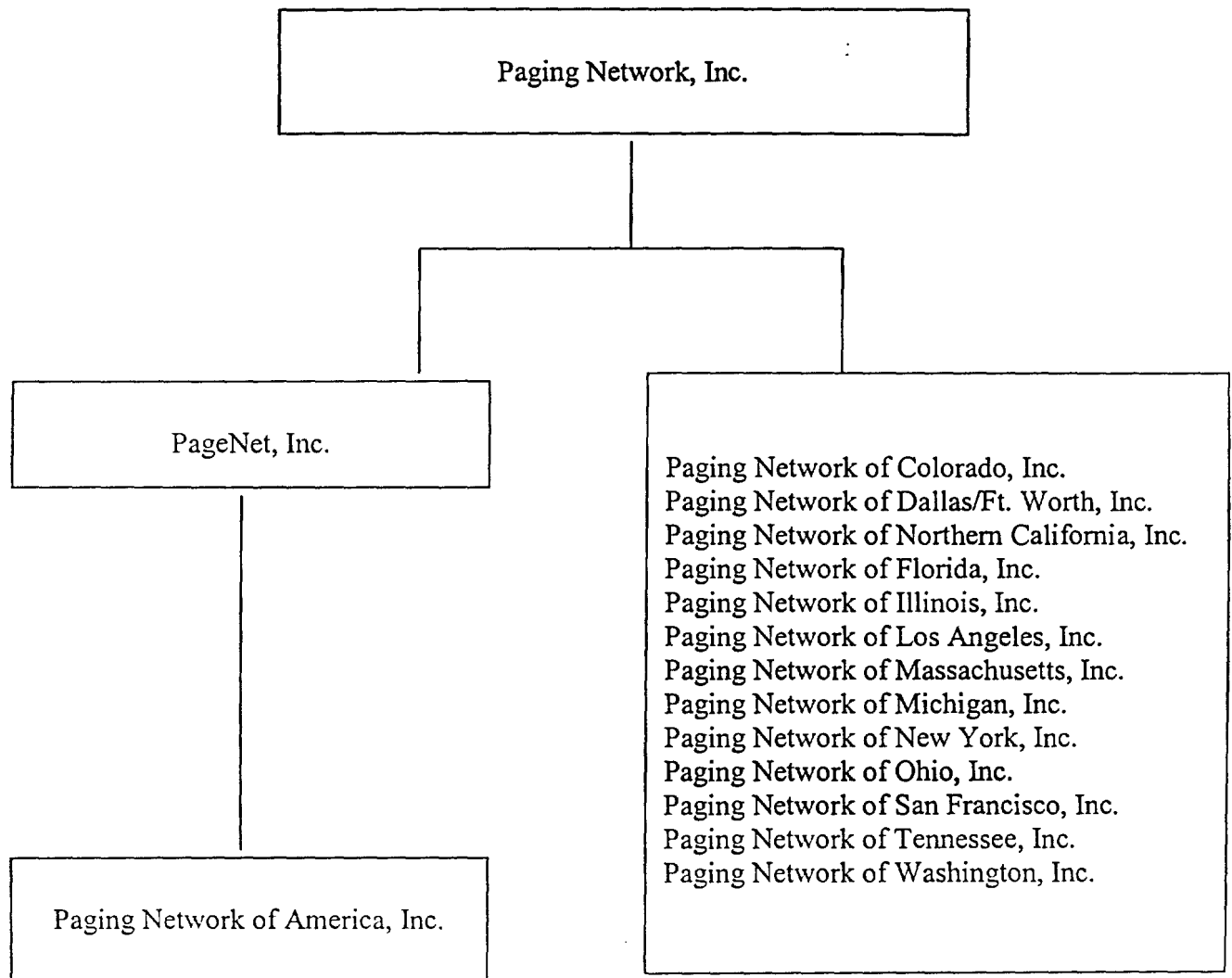
Paul H. Kuzia
Executive Vice President,
Technology and Regulatory Affairs

ARCH COMMUNICATIONS GROUP, INC.
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(508) 870-6600

Date: December 13, 1999

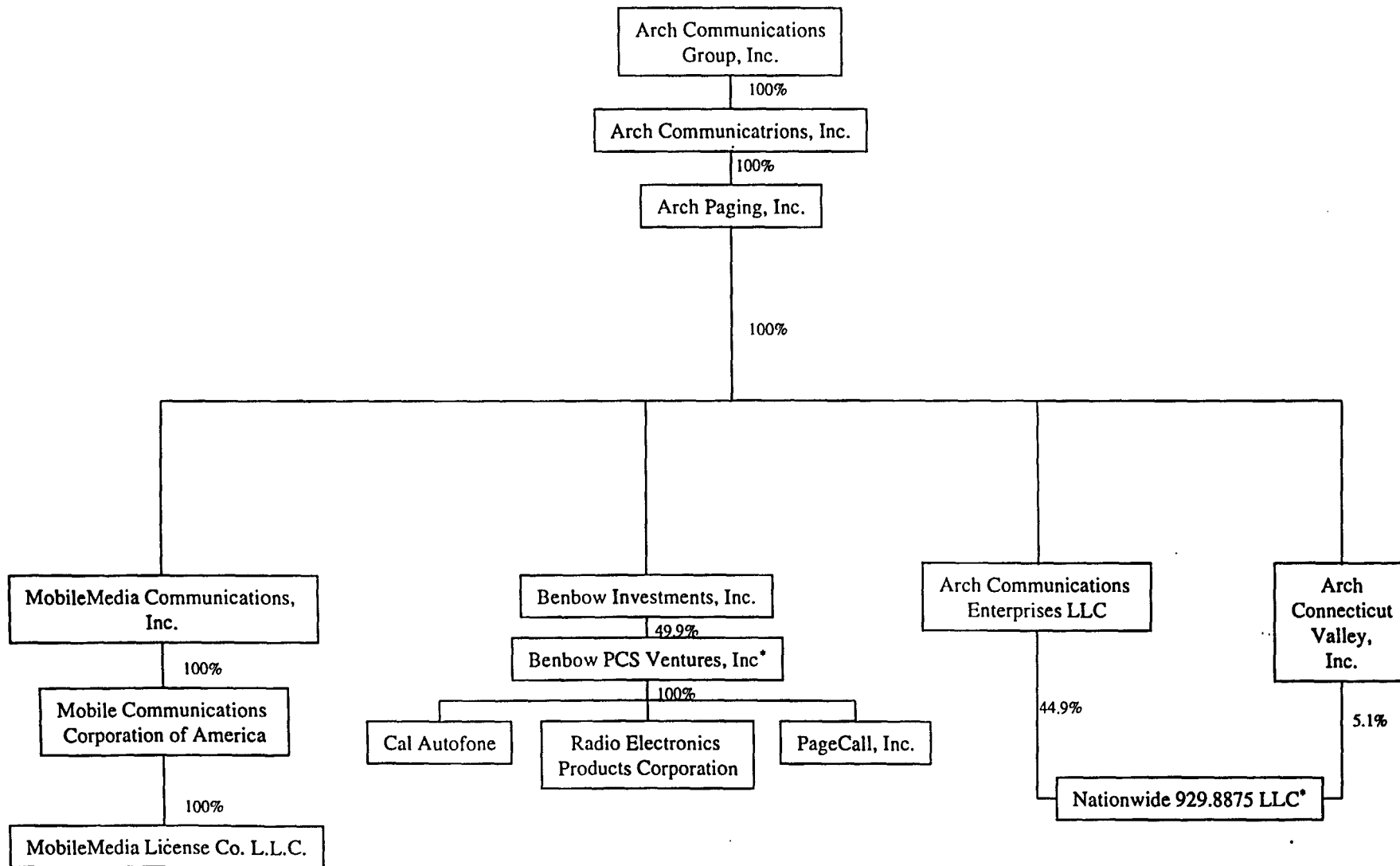
Exhibit 1

Pre-Merger Paging Network, Inc. Licensee Entities*



* Based on FCC database records.

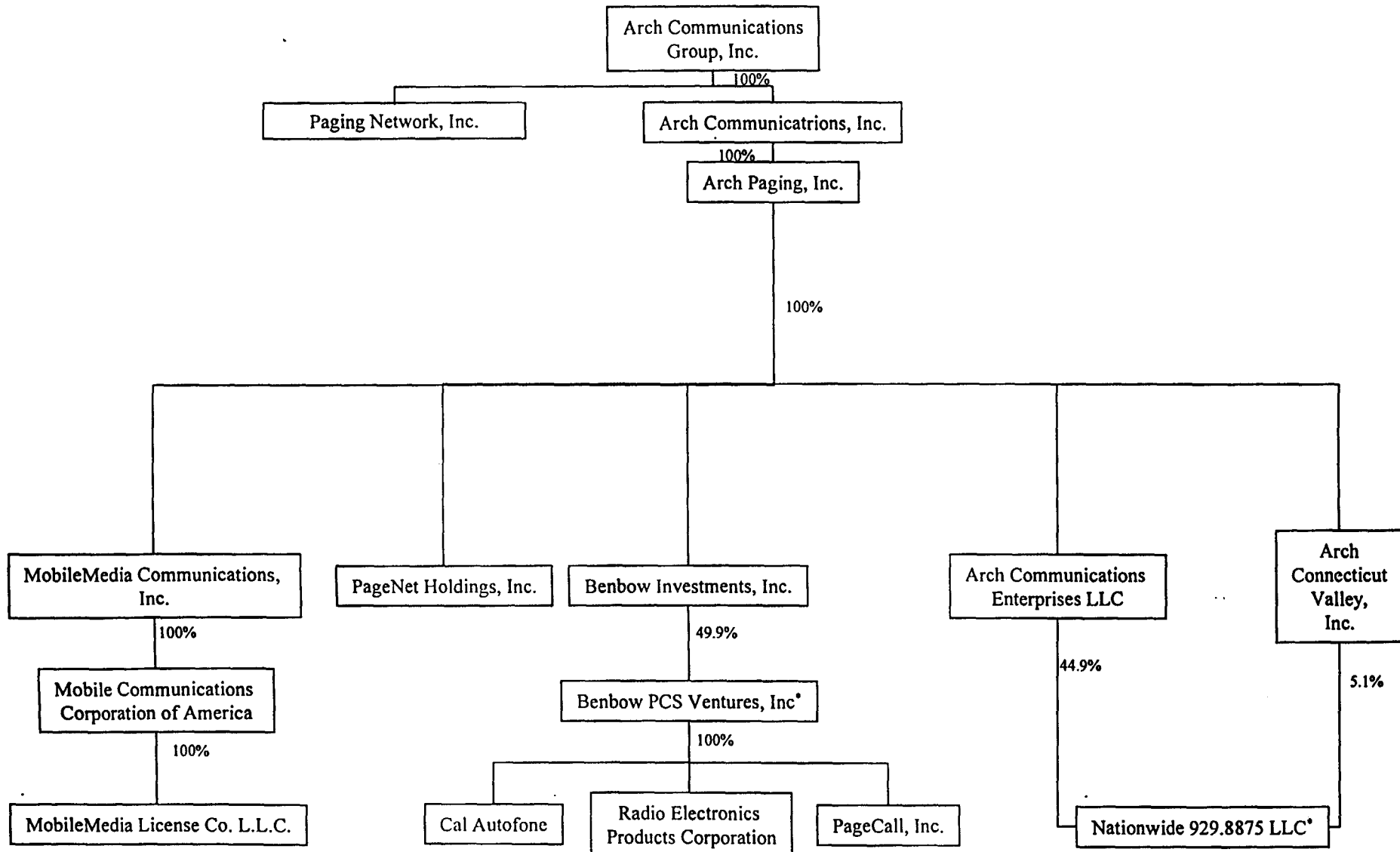
Arch Communications Group, Inc. Organizational Structure, pre-PageNet Merger



*Arch holds a 50% total interest in Nationwide 929.8875 LLC ("Nationwide") through its two wholly owned subsidiaries, Arch Communications Enterprises LLC (44.9%), and Arch Connecticut Valley, Inc. (5.1%). The other 50 percent of Nationwide is held by AirTouch Communications, Inc. and three of its subsidiaries.

** Arch holds a minority non-controlling interest in this licensee entity. Therefore no request to transfer control of this entity is being sought.

Arch Communications Group, Inc. Organizational Structure, post-PageNet Merger



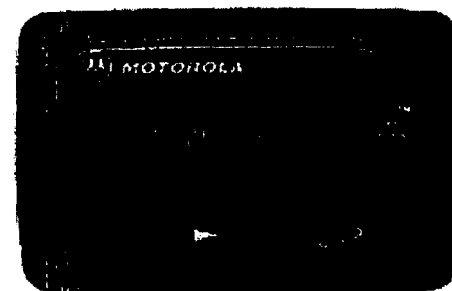
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** Arch holds a minority non-controlling interest in this licensee entity. Therefore no request to transfer control of this entity is being sought.

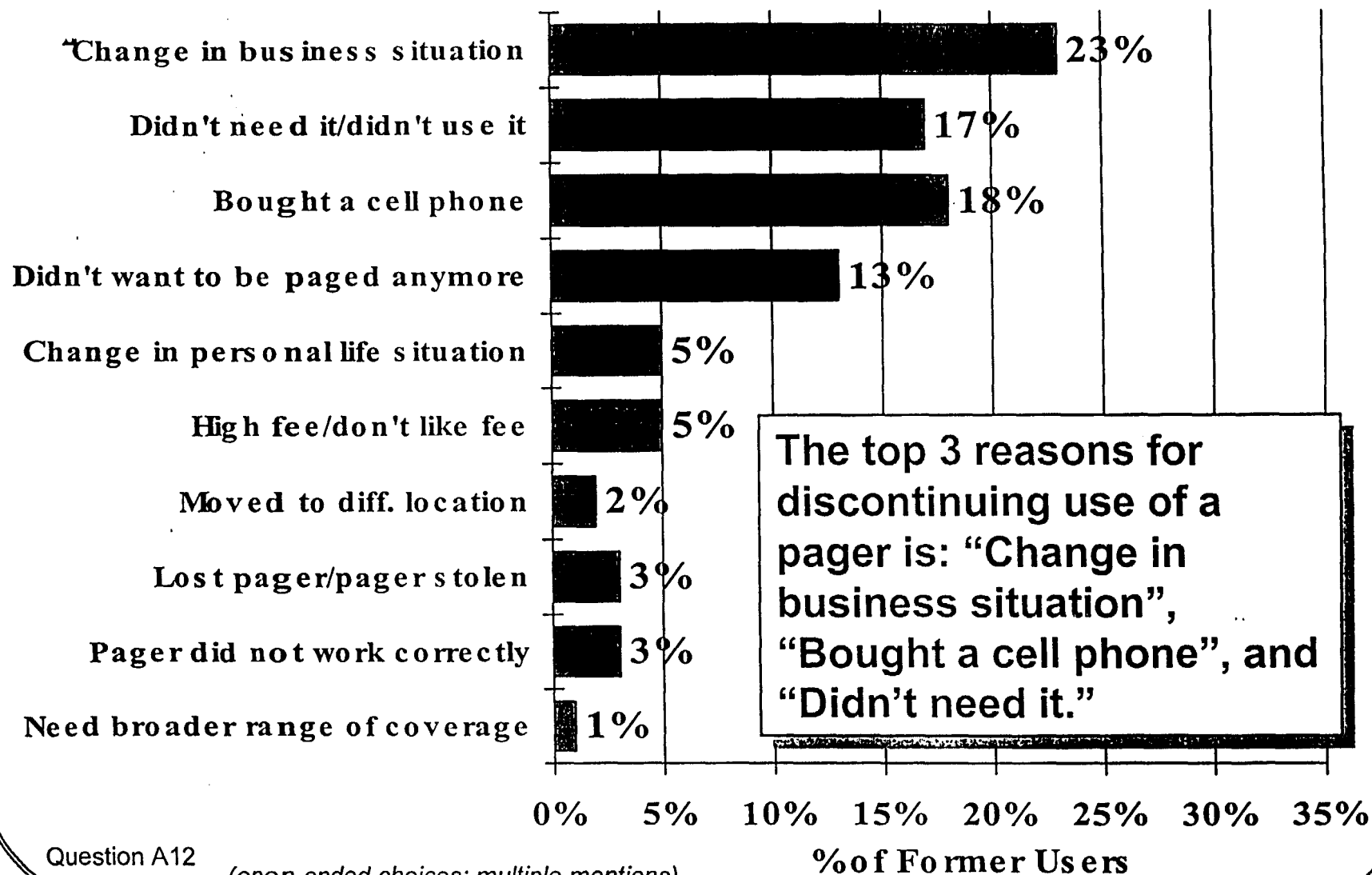
Exhibit 2



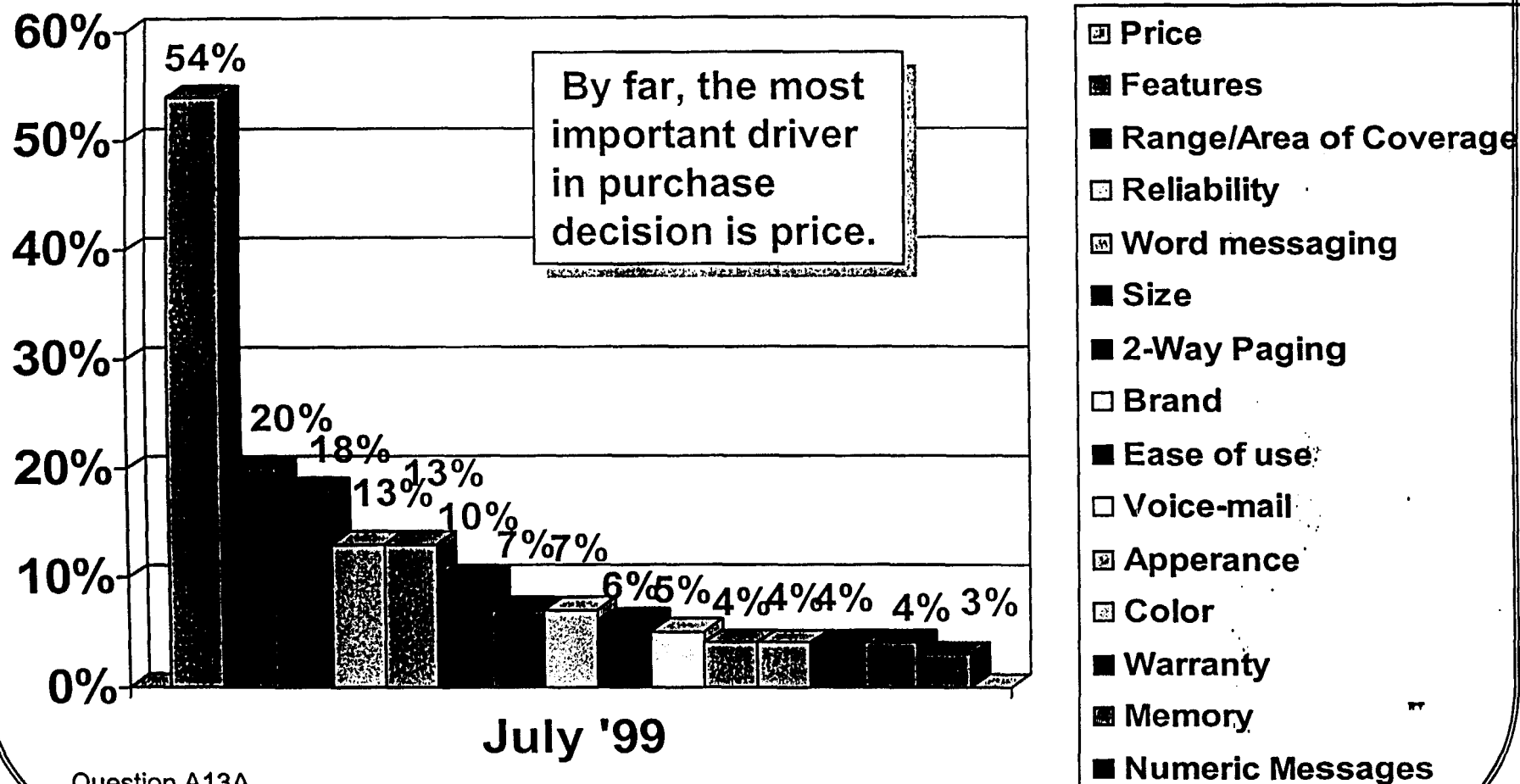
The Market Monitor Report: Insights to the Adult Paging Market July, 1999



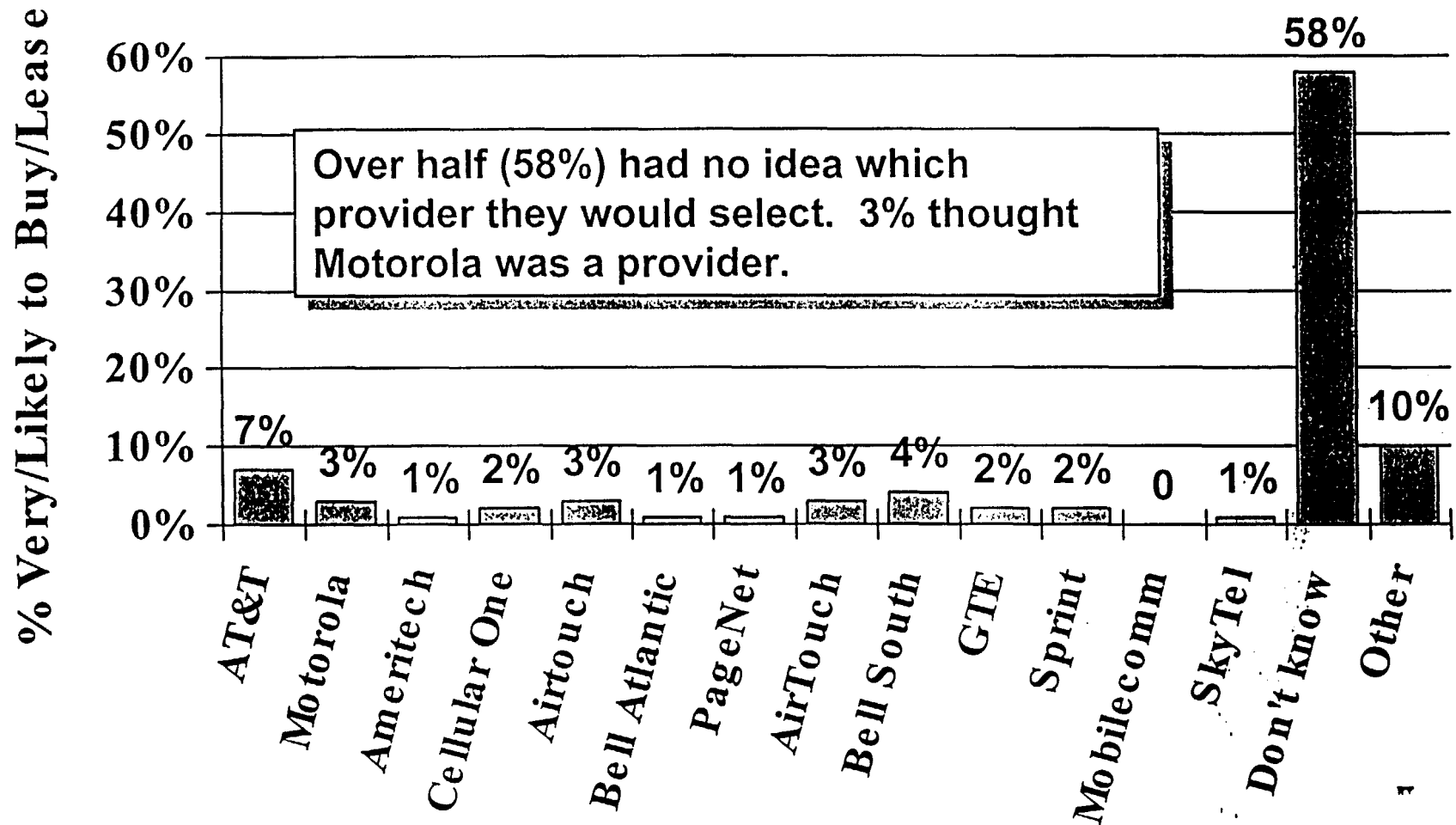
Why did you stop using your pager? (Former Users Only)



Things which would be most important in purchase decision if buying a pager today



What service provider would you select? (Select providers)



Question A15A

Reasons Why Own a Pager vs. a Cellular or Digital/PCS Phone

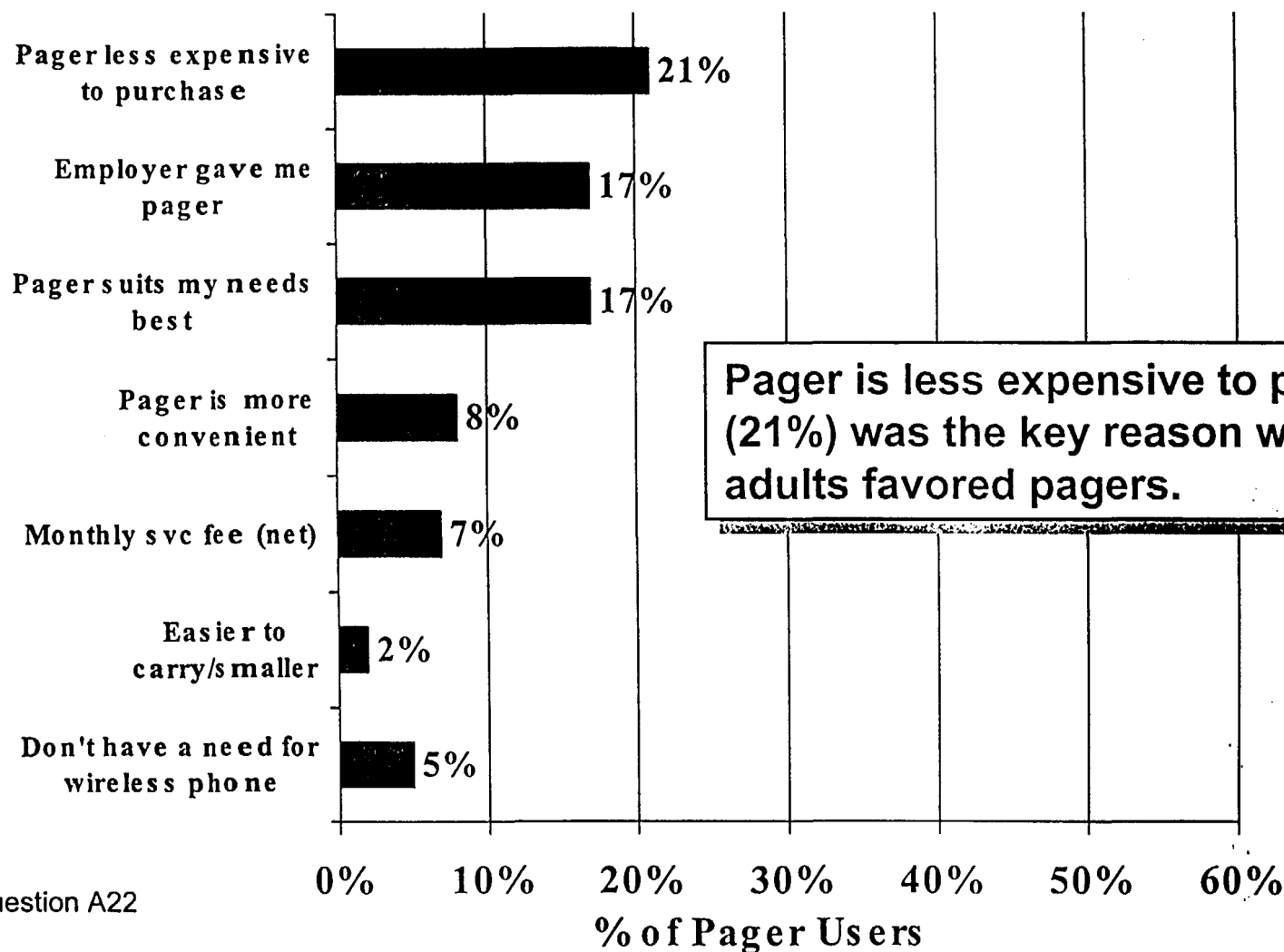
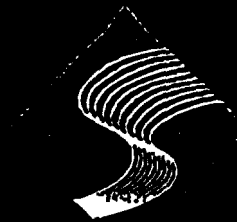


Exhibit 3¹

¹ The following materials are excerpted from the copyrighted publication, "The State of the U.S. Paging Industry: 1999," published by The Strategis Group, Inc., the exclusive owner of the copyright in this work.

Key

The State of the U.S. Paging Industry: 1999



THE STRATEGIS GROUP
an edr company

1. Executive Summary

The State of the US Paging Industry: 1999 is a comprehensive examination of paging industry trends. Based on The Strategis Group's eleventh annual survey of paging operators, the report details the results of operating, financial, and competitive conditions.

To gather data for this report, The Strategis Group conducted a mail survey of US paging operators. Survey data was supplemented by interviews with paging operators and through publicly available information such as annual reports, marketing information, and press releases. Survey analysis was compiled for companies with a combined total of 35.8 million pagers in service at the end of 1998, representing over 79% of the total industry. Other important sources of information include: the Federal Communications Commission, the Personal Communications Industry Association and The Strategis Group's own market intelligence based on over eleven years of market research in the paging industry.

1.1 Current State of Paging

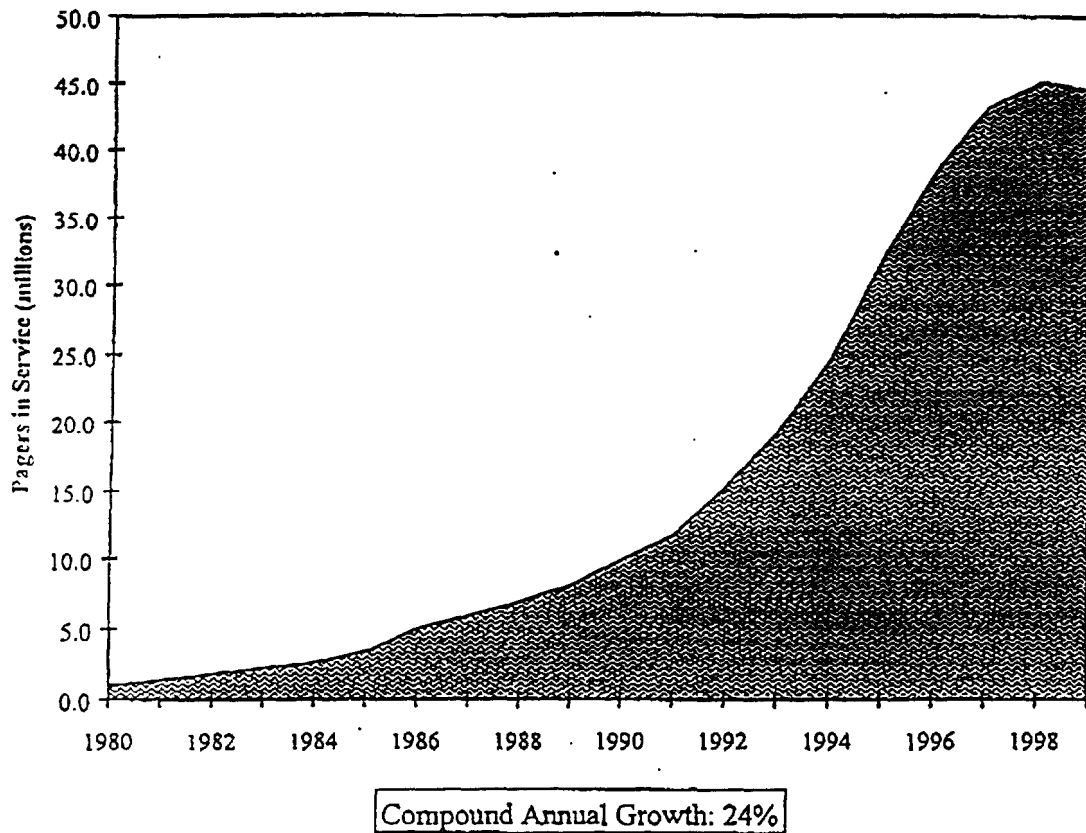
1.1.1 Subscriber Growth

The paging industry is at a crossroads in terms of acquiring new subscribers. Advanced messaging services were expected to stimulate growth. (The Strategis Group defines advanced messaging services as the guaranteed, two-way text, and voice messaging services offered over narrowband PCS networks as well as the dedicated data networks of BellSouth Wireless Data and American Mobile Satellite Company) Yet as of mid-1999, guaranteed messaging subscriber additions are already beginning to plateau, one of only two voice messaging operators, CONXUS, ceased operations, while two-way text messaging is still too new and too expensive to significantly impact subscriber growth. Meanwhile, traditional one-way services are facing intense competition from other wireless technologies like cellular and PCS. With the recent stagnation in paging growth, investors are pressuring large, public carriers like PageNet to improve the bottom line and churn off unprofitable customers, a practice that resulted in their reporting negative net additions for the first time in 1998.

- As of year-end 1998, The Strategis Group estimated the total number of pagers in service at 45.1 million, with 44.6 million one-way subscribers and 520,000 advanced messaging subscribers.
- This represents a 5% growth in the installed base during 1998, a significant change from just two years ago, when the industry enjoyed a 20% annual growth rate.
- By mid-1999, however, the paging industry experienced negative growth, due to the reporting of negative net additions by PageNet, PageMart and Ameritech. Paging's installed base totaled 44.6 million, a -1% growth since year-end 1998.



Figure 1.1 Historical Number of Pagers in Service, 1980 to Mid-1999



Source: The Strategis Group, Inc.

1.1.2 Churn

Customer churn is an increasing threat to both paging carriers and the paging industry as a whole. In addition to the risk of losing a customer to another paging provider, the industry faces the danger of losing a paging user altogether to another wireless communications industry such as cellular/PCS. Furthermore, the loss of recurring revenues from a churned subscriber may be exacerbated if the customer generated higher than average revenues.

- Churn continues to erode paging's installed base, as the industry's average monthly churn rate increased from 3.0% to 3.3%. This translates into a 39.6% annual churn rate.
- The Strategis Group assumed that those subscribers who churned due to either moving or competition from other paging carriers were merely switching carriers and were not discontinuing service altogether. In 1998, therefore, 26% of churn could be attributed to these switch churn subscribers and the remainder, 74%, were assumed to discontinue paging service altogether.

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Frankfurt, Germany2300 N Street, NW
Washington, DC 20037-1128telephone: 202.783.4141
facsimile: 202.783.5851
www.wbklaw.com

December 13, 1999

Via Hand DeliveryMagalie Roman Salas, Secretary
Federal Communications Commission
1270 Fairfield Road
Gettysburg, PA 17325-7245Re: Arch Communications Group, Inc.
Post Arch-PageNet Merger Ownership Report - - FCC Form 602

Dear Ms. Salas:

Pursuant to Section 1.919 of the Commission's rules, 47 C.F.R. § 1.919, Arch Communications Group, Inc. ("Arch"), by its attorneys, hereby submits an original and one copy of FCC Form 602, FCC Ownership Disclosure Report. The information contained therein reflects the proposed ownership of Arch following the merger of Arch and Paging Network, Inc., as set forth in the FCC transfer of control applications filed simultaneously herewith.

Please contact the undersigned (counsel for Arch) or Judith St. Ledger-Roty, Kelley Drye & Warren L.L.P., (202) 955-9600 (counsel for Paging Network, Inc.) if you have any questions concerning this filing.


Sincerely,

WILKINSON BARKER KNAUER, LLP

By: Kathryn A. Zachem

Attachment

Applicant/Licensee Information

1) First Name (if individual):	MI:	Last Name:	Suffix:
2) Applicant Name (if entity):		3) Applicant TIN:	
Arch Communications Group, Inc.			

Related FCC Regulated Businesses of Applicant/Licensee

4a) Name and address of all FCC Regulated Businesses owned by Applicant/Licensee (use additional sheets, if necessary):	4b) Principal Business:	4c) TIN:	4d) Percent of Interest Held:
See Exhibit 1			


Signature

1) Typed or Printed Name of Party Authorized to Sign

First Name:	MI:	Last Name:	Suffix:
Paul	H.	Kuzia	

Title:

Executive Vice President, Technology and Regulatory Affairs

Signature: 	Date: DEC 10 1999
--	----------------------

Failure To Sign This Application May Result In Dismissal Of The Application And Forfeiture Of Any Fees Paid

WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).